

# **Health Professional Disciplinary Reform FY 2016 Report to the Legislature**

(Pursuant to PA 368 of 1978 as amended)

**May 18, 2017**

**Prepared by**

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**Bureau of Professional Licensing**

**Reporting Period: October 1, 2015 to September 30, 2016**



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## Section 1: Summary of Legislative Reporting Requirements

The reports in Section 2 and Section 3 fulfill the legislative reporting requirement pursuant to MCL 333.16241 (8) (a), (b), (c), (d) and (e). These regulations require the Bureau of Professional Licensing to report the following regarding disciplinary actions taken against health professional licensees:

- Allegations Received
- Investigations Authorized
- Complaints Issued
- Cases Closed Without Disciplinary Action
- Disciplinary Actions Taken (By Type of Complaint and Health Profession)
- Actions Rendered by Disciplinary Subcommittee or Board
- Number of Cases Granted Extensions
- Recommendations made by Boards and Task Forces

These reports must provide this information as both a summary of all boards combined as well as by each individual board. With respect to cases that were granted extensions, the following is a description of the statutory time frames for processing complaints:

1. **Investigation Authorized to Complaint Filed:** This is a 90-day time period set forth in MCL 333.16231(6). Within 90 days after an investigation is initiated, the Department must do 1 or more of the following: issue a formal complaint, conduct a compliance conference, issue a summary suspension, issue a cease and desist order, or dismiss the complaint. One 30-day extension, making a total of 120 days, is allowed during this period.
2. **Compliance Conference Held to Hearing Held:** This 60-day time period is set forth in MCL 333.16231a(1) and requires a hearing to be conducted within 60 days after a compliance conference at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee.
3. **Hearing Record Received by Disciplinary Subcommittee (DSC) to Decision Rendered:** MCL 333.16232(3) requires a disciplinary subcommittee to meet and impose a penalty within 60 days after the receipt of the recommended findings of fact and conclusions of law from a hearings examiner.
4. **Investigation Authorized to Disciplinary Subcommittee Rendered Decision:** The entire disciplinary process, from the initiation of an investigation to the final decision by the disciplinary subcommittee, must be completed within one year pursuant to MCL 333.16237(5).

## Section 2: FY 2016 Legislative Report Overview

This report has been prepared pursuant to Public Act 368 of 1978. This act requires that the Michigan Department of Licensing and Regulatory Affairs (LARA) annually report to the legislature all investigations pursued and disciplinary actions taken with health professionals by their respective occupational boards under the provisions of Article 7 and Article 15 of the Public Health Code, per MCL 333.16241 (8) (a), (b), (c), (d) and (e). This information is summarized in Section 3 of this report, which is compiled from the health occupations database used by the Bureau of Professional Licensing (BPL). The *FY 2016 Health Professional Disciplinary Reform Report to the Legislature* reflects actions taken from October 1, 2015 to September 30, 2016 as a result of Michigan's Health Professional Disciplinary Reform Legislation.

### **FY 2016 Data:**

Below is the FY 2016 data reflecting actions taken by BPL covering the period of October 1, 2015 to September 30, 2016:

1. Processed a total of 4,397 allegations (Section 3).
2. Out of the 4,397 allegations received in FY 2016, the four most frequent were as follows:
  - Negligence-Incompetence (30%)
  - Continuing Education (15%)
  - Criminal Conviction (13%)
  - Sister State Disciplinary Action (10%)

The 4,397 allegations received in FY 2016 represent an increase (697 files) from the previous year. In addition to this increase in the 12 month allegation totals between this year's report and the 2015 report, a comparison of changes seen in the allegation category totals can also be made.

This report also reflects the trends in increased or decreased allegation totals or categories:

1. Between April 1, 1994 and September 30, 2016, there have been a total of 64,191 allegations received encompassing all licensing boards since the effective date of the Health Professional Disciplinary Reform Legislation.
2. The allegation data (Section 3) reveals both the FY 2016 BPL totals by category, as well as the individual board totals by category. The large increases or decreases from one year to the next in any allegation category usually represent normal fluctuations in the types of allegations received by the bureau.

3. The data (Section 3) shows there were 1,117 investigations authorized from the 4,397 allegations received in FY 2016, representing 25% of all allegations authorized for investigation.
  - In FY 2015, 29% of 3,700 allegations received were authorized for investigation.
4. There were 1,280 administrative complaints filed in FY 2016, compared to 939 in 2015.
  - While there were 1,280 administrative complaints, 2,366 complaints were closed or dismissed in FY 2016.
5. There was also an increase of 615 files from FY 2015 to FY 2016 in the total number of disciplinary actions taken (Section 3).
6. The total number of disciplinary actions in FY 2016 was 1,837 (Section 3). The most frequent were:
  - Fine Imposed (37%)
  - Probation (22%)
  - Suspended (10%)
7. A breakdown of the top 4 categories among the 234 files exceeding time frames in FY 2016 (Section 3) were in the following categories:
  - Negligence-Incompetence (62%)
  - Drug Diversion (14%)
  - Substance Abuse (6%)
  - Negligence-Incompetence Malpractice (3%)

These file categories represent the type of files that often require extensive documented research, subpoena requests, expert evaluations, and investigation. Due to the extensive amount of time needed for these types of investigations, the file often exceeds the Bureau's designated time frames where an extension is requested.

8. In FY 2016 there were 1,117 Investigations Authorized, and 1,149 Investigations Conducted. There are more investigations conducted in FY 2016 than authorized due to a carry-over of investigations authorized in FY 2015 that were investigated in FY 2016.
9. In FY 2016 there were 1,280 Complaints Issued, and 1,117 Investigations Authorized. There are more complaints issued in FY 2016 than Investigations Authorized due to a carry-over of complaints issued in FY 2015 that resulted in investigations being authorized in FY 2016.

## Section 3: FY 2016 Licensing Database Information

### LARA/BPL Annual Legislative Report 10/1/2015 - 9/30/2016

	ACUPUNCTURE	ATHLETIC TRAINERS	AUDIOLOGY	CHIROPRACTIC	COUNSELING	DENTISTRY	MARRIAGE & FAMILY THERAPY	MASSAGE THERAPY	MEDICINE	NURSING	NURSING HOME ADMINISTRATORS	OCCUPATIONAL THERAPISTS	OPTOMETRY	OSTEOPATHIC MEDICINE & SURGERY	PHARMACY	PHYSICAL THERAPY	PHYSICIAN'S ASSISTANTS	PODIATRIC MEDICINE & SURGERY	PSYCHOLOGY	RESPIRATORY CARE	SANITARIANS	SOCIAL WORK	SPEECH-LANGUAGE PATHOLOGY	VETERINARY MEDICINE	TOTALS
Allegations Received:	0	17	9	51	43	330	4	29	850	1673	72	16	15	270	513	37	56	26	77	24	0	213	7	65	4,397
Advertising	0	0	0	0	1	27	1	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	31
Alcohol Related Conviction	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Betrayal of Professional Confidence	0	0	0	0	3	0	0	0	5	16	0	0	0	0	1	1	0	2	0	4	1	0	8	0	41
Continuing Education	0	10	2	23	0	111	0	0	41	253	22	0	3	54	56	0	6	0	0	0	0	62	0	1	644
Criminal Conviction - Other	0	3	0	8	5	16	0	15	71	281	2	7	5	19	45	22	10	8	6	0	0	32	3	2	560
Drug Diversion	0	0	0	0	1	0	0	19	119	0	0	0	0	7	57	0	1	1	0	0	0	0	0	1	206
Drug Related Conviction	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Failure to Meet Licensing Requirements	0	0	0	0	1	1	0	2	3	11	0	0	0	1	8	1	1	0	1	0	0	6	0	0	36
Failure to Report/Comply	0	0	1	0	0	2	0	0	6	0	0	0	0	0	0	0	1	0	0	0	2	0	0	0	12
Insurance Fraud	0	0	0	2	0	7	0	0	4	2	0	0	0	1	7	1	0	0	1	0	0	1	0	0	26
Lack of Good Moral Character	0	0	0	0	0	3	0	1	4	17	0	2	1	1	14	0	0	0	0	0	0	0	0	0	43
Mental or Physical Impairment	0	0	1	0	4	0	0	0	4	18	0	0	0	2	2	0	2	1	1	2	0	3	1	0	41
Misappropriation of Resident Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Neglect	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0	0	0	0	0	0	0	0	0	4
Negligence - Incompetence	0	2	1	8	12	109	0	0	350	392	46	4	6	97	108	5	26	12	38	11	0	63	2	47	1,339
Negligence - Incompetence/MALP	0	0	0	0	0	1	0	0	1	0	0	0	0	6	0	0	0	0	0	0	0	0	0	0	18
No Jurisdiction	0	0	1	2	0	12	0	3	75	56	1	1	0	24	19	2	5	0	6	2	0	7	0	2	218
Overdispensing	0	0	0	0	0	0	0	0	2	0	0	0	0	0	4	0	0	0	0	0	0	0	0	0	6
Overprescribing	0	0	0	0	0	2	0	0	39	0	0	0	0	14	2	0	0	0	0	0	0	0	0	0	57
Patient Abuse	0	0	0	0	0	0	0	0	1	13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14
Probation Violation	0	0	1	1	2	13	0	0	19	50	1	0	0	2	6	0	1	2	3	0	0	3	0	2	106
Refusal to Release Patient Records	0	0	0	1	1	5	0	0	18	0	0	0	0	4	0	0	0	0	1	0	0	4	0	0	34
Sexual Misconduct	0	1	0	2	4	1	2	3	7	5	0	1	0	2	0	2	0	0	6	0	0	7	0	0	43
Sister State Disciplinary Action	0	1	0	1	0	4	0	0	133	178	0	0	0	23	108	0	3	0	1	0	0	2	0	1	455
Substance Abuse	0	0	1	0	6	2	0	1	14	253	0	1	0	8	20	2	1	2	3	2	0	8	1	2	327
Technical Violation of Article 7	0	0	0	1	0	0	0	0	4	0	0	0	0	1	42	0	0	0	0	0	0	0	0	2	50
Unethical Business Practices	0	0	0	0	0	5	0	0	4	0	0	0	0	1	1	0	0	0	0	0	0	2	0	0	13
Unlicensed Person	0	0	1	2	3	5	1	3	8	7	0	0	0	0	6	2	1	0	3	0	0	3	0	3	48
Unsanitary Condition	0	0	0	0	0	3	0	0	7	0	0	0	0	2	3	0	1	2	0	0	0	0	0	2	20
Investigations Authorized	0	3	3	12	12	60	3	8	178	386	28	7	2	74	166	11	12	9	36	9	0	69	3	26	1117
Investigations Conducted	0	1	3	10	11	68	2	8	187	406	30	7	1	70	164	9	16	6	31	6	0	75	4	34	1149
Extensions Granted:	0	0	0	3	2	19	1	1	51	95	4	2	0	10	12	5	1	1	4	3	0	15	1	4	234
Advertising	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
Betrayal of Professional Confidence	0	0	0	1	0	0	0	0	1	2	0	0	0	0	0	0	0	0	0	0	0	2	0	0	6
Drug Diversion	0	0	0	0	0	0	0	0	3	25	0	0	0	1	3	0	0	0	0	0	0	0	0	1	33
Failure to Report/Comply	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Insurance Fraud	0	0	0	0	0	1	0	0	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	4
Lack of Good Moral Character	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Mental or Physical Impairment	0	0	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	2
Negligence - Incompetence	0	0	0	1	0	14	0	0	36	56	4	2	0	4	6	2	1	0	3	2	0	12	1	2	146
Negligence - Incompetence/MALP	0	0	0	0	0	2	0	0	3	0	0	0	0	2	0	0	0	1	0	0	0	0	0	0	8
Patient Abuse	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Probation Violation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Sexual Misconduct	0	0	0	0	1	0	1	1	1	0	0	0	0	1	0	1	0	0	0	0	0	1	0	0	7
Substance Abuse	0	0	0	0	0	0	0	0	0	10	0	0	0	1	1	1	0	0	0	1	0	0	0	1	15
Technical Violation of Article 7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Unethical Business Practices	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Unlicensed Person	0	0	0	0	1	1	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Complaints Issued	0	10	2	26	10	125	0	5	151	521	26	6	5	75	174	9	8	7	17	4	0	89	0	10	1280
Order Served	1	7	1	24	15	104	1	7	157	481	17	7	7	53	220	14	8	12	18	7	0	106	2	20	1289
Final Orders	1	7	1	24	15	104	1	7	157	481	17	7	7	53	220	14	8	12	18	7	0	106	2	20	1289
Complaints Dismissed	0	9	5	21	19	164	1	13	521	903	25	5	8	161	210	21	47	15	34	6	0	117	7	54	2366
Board Rendered Decision	0	0	0	0	1	0	0	4	9	23	0	0	1	1	9	1	1	0	0	0	0	8	0	5	63
DSC Rendered Decision	0	0	0	10	25	88	2	5	184	665	13	9	3	39	266	14	12	11	29	11	0	113	3	33	1535
Disciplinary Actions:	2	14	2	21	26	132	210	2	8	802	7	12	68	15	12	234	21	30	23	12	0	3	151	30	1837
Cease and Desist Issued	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
DSC/BD Action Appealed in Court	0	0	0	0	0	0	1	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	1	5
DSC/BD Vacated Order	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Fine Imposed	1	7	1	8	8	46	77	1	0	277	3	4	20	5	3	119	6	8	7	4	0	1	54	13	673
License Denied	0	0	0	0	0	0	0	0	3	1	0	0	0	0	0	3	0	0	0	0	0	0	0	0	7
Limited / Restricted	0	0	0	0	1	1	16	0	0	16	0	0	2	0	0	5	1	3	1	0	0	0	5	1	52
Monitoring Required	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2
Probation	1	7	1	6	4	36	29	1	0	193	3	3	15	3	1	41	6	4	4	1	0	0	42	6	407
Reclassification Denied	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2
Reclassified w/o Sanction	0	0	0	0	0	2	3	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	2	0	9
Reclassified with Sanction	0	0	0	1	0	0	2	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	5
Reinstated Upon Conditions	0	0	0	0	0	0	0	0	0	4	0	1	0	0	0	1	0	0	0	0	0	0	0	0	6
Reinstated with Sanction	0	0	0	0	1	0	3	0	0	12	0	0	1	0	0	3	1	1	0	0	0	0	6	2	30
Reinstatement Denied	0	0	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	0	1	0	0	0	4	1	11
Reprimanded	0	0	0	1	0																				